

## § 24.260

formula number will be marked on bulk containers of special natural wine or other wine produced under § 24.218;

(4) The net contents of each container larger than four liters or each case in wine gallons, or for containers larger than four liters or cases filled according to metric measure, the contents in liters. If wine is removed in cases, the cases may be marked to show the number and size of bottles or other containers in each case in lieu of the net contents of the case; and

(5) Except for cases, the date of removal or shipment.

(b) *Application of marks.* Required marks may be cut, printed, or otherwise legibly and durably marked upon the container larger than four liters or the case or placed on a label or tag securely affixed to the case or container larger than four liters.

(c) *Location of marks.* Required marks will be placed on a container larger than four liters or on the side of a case for ready examination by appropriate ATF officers. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1387, as amended, 1407, as amended (26 U.S.C. 5368, 5388, 5662))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-312, 56 FR 31082, July 9, 1991; T.D. ATF-409, 64 FR 13684, Mar. 22, 1999]

## § 24.260 Serial numbers or filling date.

Each container larger than four liters or each case used for removing wine for consumption or sale will be marked with a serial number or filling date at the time of filling or when such containers or cases are prepared for removal. Serial numbers will commence with “1” and continue until the numeral “1,000,000” is reached, whereupon the series may recommence with the numeral “1.” However, the proprietor may initiate a new series after the numeral “1,000,000” has been reached provided no numeral will be used more than once during a 12-month period. If desired, a separate series of numbers with letter prefixes may be used for containers larger than four liters and for cases, or for cases filled on different bottling lines, or for removals from different loading docks. The proprietor

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may mark containers larger than four liters or the cases with the filling date in lieu of using a serial number or use both a serial number and the filling date. However, if the proprietor desires to change from the use of a serial number to use of a filling date, or *vice versa*, a notice will be sent to the appropriate ATF officer before making the change. Where United States or foreign wine is recased, the cases will be marked with the date of recasing, preceded by the letter “R”, in lieu of serial number or filling date. (72 Stat. 1381; 26 U.S.C. 5367, 5368)

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## Subpart M—Losses of Wine

### § 24.265 Losses by theft.

The proprietor shall be liable for and pay the tax on wine unlawfully removed while on bonded wine premises, or while in transit thereto or therefrom in bond, unless the proprietor or other person responsible for the tax, establishes to the satisfaction of the appropriate ATF officer that the theft did not occur as the result of connivance, collusion, fraud or negligence on the part of the proprietor or other person responsible for the tax or the owner, consignor, consignee, bailee, or carrier, or their agents or employees. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999; T.D. ATF-432, 65 FR 69253, Nov. 16, 2000]

### § 24.266 Inventory losses.

(a) *General.* The proprietor shall take a physical inventory of all untaxed wine on-hand on bonded wine premises as of the close of business each tax year, or where a cycle different from the tax year has been established as provided in § 24.313, the inventory will be taken annually at the end of that cycle, or at any time required by an ATF officer. The physical inventory of bulk and bottled or packed wine will be

recorded and reported as required by § 24.313.

(b) *Bulk wine losses.* The physical inventory of bulk wine will determine losses due to spillage, leakage, soakage, evaporation, and other losses normally occurring from racking and filtering since the previous physical inventory required by this section. A claim for allowance of loss, under the provisions of § 24.65, is required for inventory losses in production or storage:

(1) Where there are circumstances indicating that all or a part of the wine reported lost was unlawfully removed, or

(2) Where the loss on bonded wine premises during the annual period exceeds three percent of the aggregate volume of wine on-hand at the beginning of the annual period and the volume of wine received in bond during the annual period; or the loss exceeds six percent of the still wine produced by fermentation; or the loss exceeds six percent of the sparkling wine produced by fermentation in bottles; or the loss exceeds three percent of the special natural wine produced under § 24.195 or other wine produced under § 24.218; or the loss exceeds three percent of the artificially carbonated wine produced; or the loss exceeds three percent of the bulk process sparkling wine produced.

The percentage applicable to each tax class of wine will be calculated separately, unless the calculation is impracticable because of the mixture of different tax classes by addition of wine spirits or blending during the annual period, in which case the percentage will be calculated on the aggregate volume. Wine removed immediately after production for use as distilling material and on which the usual racking, clarifying, and filtering losses are not sustained, will not be included in the calculations.

(c) *Bottle and other container wine losses.* Wine filled into a bottle or other similar containers are not subject to losses due to spillage, leakage, soakage, evaporation, and other losses normally occurring from racking and filtering. In addition, wine that has been filled into a bottle or other similar containers can be accurately accounted for and any unexplained shortage is

considered evidence of an unreported removal. Therefore, the proprietor shall pay the tax on any unexplained loss of untaxpaid bottled or packed wine disclosed by inventory or otherwise. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5369, 5370))

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#### § 24.267 Losses in transit.

Where the loss in transit of bulk wine shipped in bond or the total daily bulk wine in bond shipments received in bond from the same winery exceeds one percent (two percent on transcontinental shipments) of the volume shipped, the proprietor of the receiving bonded wine premises shall immediately notify the appropriate ATF officer and file a claim under the provisions of § 24.65. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

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#### § 24.268 Losses by fire or other casualty.

The proprietor must immediately report any loss by theft, fire or other casualty, or any other extraordinary or unusual loss to the appropriate ATF officer. If required by the appropriate ATF officer, the proprietor must file a claim under the provisions of § 24.65. The volume of wine loss must be reported on ATF F 5120.17 for the reporting period during which the loss occurred. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

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